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## Employers in Hungary are now permitted to require vaccination

In response to the 4th wave of the pandemic, the Government Decree 598/2021 (X. 28.) (the "**Government Decree**") in Hungary grants employers the right to unilaterally choose to require their employees to be vaccinated against COVID-19.

Employers should take into consideration the following when requiring vaccination:

- Based on the wording of the Government Decree, an employer can define vaccination as a working condition, considering the place of work and the characteristics of the position with the provision that such obligation is recommended to be supported by a risk assessment made by an occupational health and safety specialist, as this matter is still subject to a professional's judgement. According to Article 9 (2) of the Hungarian Labour Code, the personal rights of employees may be restricted if deemed strictly necessary for reasons directly related to the intended purpose of the employment and if proportionate for achieving its objective, which conditions are confirmed by the above risk assessment.
- As per the Government Decree, an employer can require vaccination within a 45-day deadline for employees who have not received their first vaccination, except for employees who prove by a medical certificate that vaccination is contraindicated for medical reasons. Given that the Government Decree entered into force on 1 November 2021, provided that the employer has already introduced such obligation on the date of entry into force, it can impose sanctions after the expiry date of the 45-day period, but not earlier than **16 December 2021**.
- As ordering vaccination has both labour law and data protection-related implications, it is worth handling them jointly in one employer's policy which can be communicated to the employees either electronically (e.g. by e-mail) or on paper. The employer shall determine, inter alia, (i) the group(s) of employees being subject to this obligation (all employees or for specific job positions) in order to protect health at the place of work; (ii) the possible sanctions to be imposed on employees who fail to comply with this obligation; (iii) and the legal basis, purpose and deadline for the processing of the vaccination-related personal data.

- If the employee fails to receive the vaccination within the above time limit set by the employer, the employer can unilaterally order unpaid leave, and if they still fail to meet this obligation within one year, their employment can be terminated.
- Employers can process the vaccination related data up to the end of the state of emergency, which according to the legal provisions in force, expires on **1 January 2022**. Consequently, employers can monitor the fulfilment of the introduced obligation and process the related personal data until this date. Previously, employers could handle the vaccination / immunity related personal data of employees within a quite limited scope. However, now, the Government Decree grants a general authorisation to process the related personal data in order to monitor the fulfilment of the introduced obligation.

In view of the fact that employers can oblige their employees to be vaccinated during the state of emergency, which currently remains in effect until 1 January 2022, *the timeframe for introducing the obligation and taking the necessary measures is quite short.*

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